

1 State of New Hampshire Banking Department

2 Case No.: 10-004

3 In re the Matter of:

4 State of New Hampshire Banking Department

5 and

6 Dargon Law Firm P.L.L.C. (a/k/a www.dargonlaw.com)  
7 Daniel Paul Dargon, Esquire, Donald P. Lader, Jr., Esquire  
8 Stephen R. Kasmar, Esquire, Joseph D. Becher, Esquire,  
9 Eric J. Simenson, Esquire, Joseph R. Russell, Esquire,  
10 Patricia Ellis, Esquire, Jeffery B. Merrill, Esquire,  
11 Peter Larkowich, Michelle Preve, and Lacie Kingsbury

12 **AMENDED ORDER TO SHOW CAUSE**

13 **NOTICE OF ORDER**

14 This Amended Order to Show Cause amends the Order to Show Cause dated April 1,  
15 2010. The adjudicative proceeding under the provisions of RSA Chapter 397-A and RSA  
16 Chapter 541-A that began on April 1, 2010 remain. The Cease and Desist Order issued April  
17 1, 2010, remains in full force and effect, as amended by subsequent Merrimack County  
18 Superior Court Order.

19 **LEGAL AUTHORITY AND JURISDICTION**

20 The Commissioner of the New Hampshire Banking Department has the authority to  
21 issue an order to show cause and a complaint setting forth charges, to any person under the  
22 Commissioner's jurisdiction why penalties for violations of RSA Chapter 397-A should not  
23 be imposed. The Commissioner may issue, amend, or rescind such orders as are reasonably  
24 necessary to comply with the provisions of RSA Chapter 397-A. RSA 397-A:17,18 and 399-  
25 D:25, IV.

The Commissioner may by order, upon due notice and opportunity for hearing, assess penalties and bar any person from licensure if it is in the public interest and the respondent, any partner, officer, member, or director, any person occupying a similar status or performing

1 similar functions, or any person directly or indirectly controlling the respondent has violated  
2 any provision of RSA Chapter 397-A, 399-D, or rules thereunder. In addition, the  
3 Commissioner shall be entitled to recover the cost of the investigation, order rescission,  
4 restitution, and disgorgement of profits. RSA 397-A, 399-D:13, 23.

5 The Commissioner may assess fines and penalties against a mortgage loan originator  
6 in an amount not to exceed \$25,000.00 (per violation) if the Commissioner finds the mortgage  
7 loan originator has violated or failed to comply with the S.A.F.E. Mortgage Licensing Act of  
8 2008, Public Law 110-289, Title V or any regulation or order issued thereunder. Each of the  
9 acts specified shall constitute a separate violation. RSA 397-A:17, IX.

10 The Commissioner has the authority to deny any license and to impose administrative  
11 fines of up to \$2,500.00 for each violation of New Hampshire banking law and rules. RSA  
12 397-A:21, IV, 399-D:24.

13 The Commissioner shall investigate conduct that is or may be an unfair or deceptive  
14 act or practice under RSA Chapter 358-A and exempt under RSA 358-A:3, I or that may  
15 violate any of the provisions of Titles XXXV and XXXVI and administrative rules adopted  
16 thereunder. The Commissioner may hold hearings relative to such conduct and may order  
17 restitution for a person or persons adversely affected by such conduct. RSA 383:10-d.

18 **NOTICE OF RIGHT TO REQUEST A HEARING**

19 The above named Respondents have the right to request a hearing on this Order to Show  
20 Cause, as well as the right to be represented by counsel at each Respondent's own expense. All  
21 hearings shall comply with RSA Chapter 541-A. Any such request for a hearing shall be in  
22 writing, and signed by the Respondent or the duly authorized agent of the above named  
23 Respondent, and shall be delivered either by hand or certified mail, return receipt requested, to  
24 the Banking Department, State of New Hampshire, 53 Regional Drive, Suite 200, Concord,  
25 NH 03301. Such hearings will be scheduled within 10 days of the Department's receipt of the

1 request. If a Respondent fails to appear at the hearing after being duly notified, such person shall  
2 be deemed in default, and the proceeding may be determined against the Respondent upon  
3 consideration of the Order to Show Cause and Cease and Desist Order, the allegations of which  
4 may be deemed to be true.

5 If any of the above named Respondents fails to request a hearing within 30 calendar days  
6 of receipt of such order or reach a formal written and executed settlement with the Department  
7 within that time frame, then such person shall likewise be deemed in default, and the orders shall,  
8 on the thirty-first day, become permanent, and shall remain in full force and effect until and  
9 unless later modified or vacated by the Commissioner, for good cause shown.

10 **AMENDED COMPLAINT (as amended from April 1, 2010 Staff Petition)**

11 **STATEMENT OF ALLEGATIONS**

12 The Staff of the Banking Department, State of New Hampshire (“Department”) alleges the  
13 following facts:

14 1. Respondent Dargon Law Firm, P.L.L.C. (a/k/a www.dargonlaw.com)  
15 (“Respondent Dargon Law”) has been registered with the New Hampshire Secretary of State as  
16 a limited liability company since November 14, 2008, with a principal place of business at 101  
17 N. State St., Concord, NH.

18 2. Respondent Daniel Paul Dargon, Esq. (“Respondent Dargon”) has been a  
19 member of the New Hampshire Bar Association since 2008. Respondent Dargon is the founder  
20 and general partner of Respondent Dargon Law.

1           3.       Respondent Donald P. Lader, Esq. (“Respondent Lader”) has been a member of  
2 the New Hampshire Bar Association since 1996. Respondent Lader was an employee of  
3 Respondent Dargon Law for all relevant time periods in the Complaint alleging unlawful  
4 conduct on his part. Additionally, Respondent Lader was the branch manager<sup>1</sup> of Respondent  
5 Dargon Law office located at 2 Bangor Rd., Gorham, New Hampshire.

6           4.       Respondent Stephen R. Kasmar, Esq. (“Respondent Kasmar”) has been a  
7 member of the New Hampshire Bar Association since 2000. Respondent Kasmar was an  
8 employee of Respondent Dargon Law for all relevant time periods in the Complaint alleging  
9 unlawful conduct on his part.

10          5.       Respondent Eric J. Simensen, Esq. (“Respondent Simensen”) has been a  
11 member of the New Hampshire Bar Association since 2004. Respondent Simensen was an  
12 employee of Respondent Dargon Law for all relevant time periods in the Complaint alleging  
13 unlawful conduct on his part.

14          6.       Respondent Jeffery B. Merrill, Esq. (“Respondent Merrill”) has been a member  
15 of the New Hampshire Bar Association since 2006. Respondent Merrill was an employee of  
16 Respondent Dargon Law for all relevant time periods in the Complaint alleging unlawful  
17 conduct on his part.

18          7.       Respondent Joseph D. Becher, Esq. (“Respondent Becher”) has been a member  
19 of the New Hampshire Bar Association since 2008. Respondent Becher was an employee of  
20 Respondent Dargon Law for all relevant time periods in the Complaint alleging unlawful  
21 conduct on his part.

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24 <sup>1</sup> Respondent Lader operated a branch office, as there were 2 or more  
25 employees at the location. In addition to Respondent Lader, Dawn Lader  
worked at that location as well. However, the Department has concluded that  
Dawn Lader’s employment was strictly clerical, and as such, does not require  
licensing.

1           8.       Respondent Joseph R. Russell, Esq. (“Respondent Russell”) has been a member  
2 of the New Hampshire Bar Association since 2008. Respondent Russell was an employee of  
3 Respondent Dargon Law for all relevant time periods in the Complaint alleging unlawful  
4 conduct on his part.

5           9.       Respondent Patricia Ellis, Esq. (“Respondent Ellis”) has been a licensed to  
6 practice law in the State of New York since 1977. She is not a member of the New Hampshire  
7 State Bar Association, nor has she ever been. Respondent Ellis was an employee of Respondent  
8 Dargon Law for all relevant time periods in the Complaint alleging unlawful conduct on her  
9 part.

10          10.       Respondent Peter Larkowich (“Respondent Larkowich”) was an attorney  
11 practicing in the State of Massachusetts until he was administratively suspended in 2005. He  
12 has never been licensed as an attorney in New Hampshire. Respondent Larkowich was an  
13 employee of Respondent Dargon Law for all relevant time periods in the Complaint alleging  
14 unlawful conduct on his part.

15          11.       Respondent Lacie Kingsbury (“Respondent Kingsbury”) was employed as a  
16 paralegal for Respondent Dargon Law during all relevant time periods in the Complaint  
17 alleging unlawful conduct on her part.

18          12.       Respondent Michelle Preve (“Respondent Preve”) was employed as an Office  
19 Manager for Respondent Dargon Law’s principle office during all relevant time periods in the  
20 Complaint alleging unlawful conduct on her part.

21          13.       Respondent Dargon Law is not a licensed New Hampshire Mortgage Broker and  
22 has not submitted an application for licensure.

23          14.       Respondent Dargon Law acts as a New Hampshire Mortgage Broker.

24          15.       None of the individual Respondents are licensed New Hampshire Mortgage  
25 Loan Originators and have not submitted applications for licensure.

1           16.     Respondent Dargon Law has no licensed New Hampshire Mortgage Loan  
2 Originators or applicants for licensure with the Department.

3           17.     Between approximately December 2009 and February 2010, a New Hampshire  
4 resident received two separate solicitations from Dargon Law Firm. The solicitations came on  
5 Dargon Law Firm letterhead, and were “Assigned: Loan Modification Department.” The first  
6 solicitation letter stated that the recipient had been “pre-qualified by Dargon Law Firm PLLC  
7 for a loan to finance 100% of the cost of our loan modification services...” The second  
8 solicitation letter, also on Dargon Law Firm letterhead and assigned to the Loan Modification  
9 Department, stated that Respondent Dargon Law had reviewed “your property information and  
10 has determined that you are eligible to modify the current terms of your mortgage”.

11           18.     A review of the Dargon Law Firm website, dargonlaw.com, revealed that  
12 Dargon Law Firm was located at 101 N. State Street in Concord, NH. The website stated that  
13 practice areas include loan modification and debt adjustment.

14           19.     As a result of this preliminary indication that Respondent Dargon Law may be  
15 conducting unlicensed loan modifications, the Department mailed an inquiry letter via U.S.  
16 Certified Mail Return Receipt to Respondent Dargon Law. The letter, sent on February 9,  
17 2010, requested information about Respondent Dargon Law’s third party loan modification  
18 business. The next day, the return receipt was signed by an individual at Respondent Dargon  
19 Law.

20           20.     Respondent Dargon then contacted the Department and stated that Department  
21 licensure is not required, as they are a law firm and therefore exempt from licensing  
22 requirements. The Department explained that he was required to be licensed, and that the law  
23 exempts attorneys from licensure only in limited circumstances, none of which apply to  
24 Respondent Dargon’s client contracts.

1           21.     On February 17, 2010, the Department’s Examiners went to Respondent  
2 Dargon Law to begin an investigation related to their loan modification business. Examiners  
3 were not allowed in the office to conduct an investigation or examination as required by RSA  
4 397-A. Examiners left the office, and came back shortly thereafter with an inquiry letter. At  
5 this point, examiners were provided a blank client fee agreement, purportedly in response to the  
6 inquiry letter. Examiners were not provided with any of the information requested in the  
7 inquiry letter.<sup>2</sup>

8           22. The blank fee agreement provided by Respondent Dargon indicates that the  
9 prospective client can hire Respondent Dargon Law for “negotiation of a loan modification on  
10 Client’s residential real property”. According to the fee agreement, a flat fee for services must  
11 be paid in advance. The agreement also states that Dargon Law is only representing client in a  
12 negotiation capacity with the lender. Specifically **excluded** from the scope of representation is  
13 any “mediation, foreclosure or any other court proceeding.”

14           22.     Respondent Dargon then, during a meeting, informed the Department that he  
15 and his firm only accept loan modification clients if they have passed a thorough screening  
16 process, the result of which would indicate that they would be eligible for a loan modification.  
17 However, further examination revealed that consumers were “signed up” as clients by  
18 telemarketers once a payment method was agreed upon. No thorough screening mechanism  
19 was in place as had been alleged by Respondent Dargon. This is significant, as Respondent  
20 Dargon Law loan modification contracts are “best efforts” contracts, which are unlawful under  
21 RSA 397-A:14, IV(b). A lack of screening process combined with a “best efforts” contract is

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23           <sup>2</sup>The inquiry letter requested the following information: (a) any advertisements,  
24 solicitations and communications, (b) any mailing lists regarding loan modification  
25 activity, (c) all leads generated from a third party company and (d) a full client  
list (d) an explanation of how the above named Respondents made payments to all  
advertising agencies, agents, marketing firms and third party companies who  
generate leads on Respondent Dargon Law’s behalf.

1 an aggravating factor.

2 23. On or about March 30, 2010, the Department offered the above named  
3 Respondents the opportunity to voluntarily stop taking such consumer residential loan  
4 modification cases and refund fees while obtaining the proper licensure, or the Department  
5 would seek a public enforcement action. The above named Respondents simply refused to stop  
6 taking loan modification clients. A Cease and Desist Order was issued on April 1, 2010.

7 24. Despite the Cease and Desist Order, regulatory authority, and subsequent Court  
8 Order mandating a Banking Department examination, Respondent Dargon still refused to allow  
9 access to his office. On or about May 6, 2010, examiners once again attempted to conduct an  
10 examination. They were turned away and denied the ability to exercise their regulatory  
11 authority by conducting an examination. On June 30, 2010, only after a request for contempt  
12 was filed in Merrimack County Superior Court, and Respondent Dargon was once again  
13 ordered by the Court to allow access for an examination, did Respondent Dargon allow access.

14 25. An examination was conducted by the Department pursuant to RSA 397-A and  
15 Merrimack County Superior Court Order. The on-site examination at 101 N. State Street in  
16 Concord began July 6, 2010 and concluded on August 19, 2010. The on-site examination of  
17 the branch office located in Gorham, NH began on August 16, 2010 and concluded the next  
18 day. The data analysis portion of the examination continued at the Banking Department.

19 26. The examination revealed that Respondent Dargon Law was actively soliciting  
20 clients for third party loan modifications when not licensed by the Department, and no  
21 exemption from licensing is applicable.

22 27. Dargon Law purchased, through numerous sources, thousands of "leads" which  
23 were then used to directly solicit, by mail, loan modification clients. Respondent Dargon Law  
24 also advertised loan modification services on television and on his website.



1           28.     In addition to straight loan modification contracts, some consumers signed a  
2 contract for debt adjustment services, as well. These contracts apparently were to negotiate  
3 credit card debt on behalf of the consumer.

4           29.     When a prospective client called either the local Dargon Law Firm number or  
5 the toll free number that was advertised, prospective clients would speak to a “telemarketer”,  
6 who obtained basic information, to include a source of payment. Once the first payment was  
7 received by Respondent Dargon Law, the loan modification would be assigned. It was  
8 assigned to either an attorney, someone who was represented as an attorney but does not hold a  
9 license to practice law, or a paralegal.

10          30.     Once the file was assigned, cases would be frequently re-assigned, due in large  
11 part to a high employee turnover rate. The examination revealed that the above individual  
12 respondents acted as mortgage loan originators in that they offered or negotiated the terms of a  
13 residential mortgage on property located within the State of New Hampshire for compensation  
14 or gain. The typical case was sequentially handled by approximately three different employees,  
15 and each would perform work that went beyond clerical work, thereby requiring a license as a  
16 loan originator. The assigned employee would communicate with the client, make  
17 representations about the loan modification, and contact the lender in an effort to modify the  
18 terms of the mortgage.

19          31.     At various times since July 31, 2009, Respondent Dargon told consumers that  
20 the “telemarketers” were “Senior Loan Consultants”, “Mortgage Consultants” and “paralegals”.  
21 This misrepresented their function within the law firm to clients.

1           32.     Since July 31, 2009, Respondent Dargon Law has signed contracts for 108 loan  
2 modification clients with property in the State of New Hampshire.<sup>3</sup> The client was then  
3 required to pay an up-front fee for the third party loan modification. Respondent Dargon Law  
4 has specifically agreed to negotiate on behalf of the client with client’s mortgage lender on  
5 residential real property located within the state of New Hampshire.

6           33.     From at least February, 2010 through August, 2010, Respondent Dargon Law  
7 stated on its website that Peter Larkowich is an attorney licensed to practice law in the  
8 Commonwealth of Massachusetts, and in federal courts. However, Respondent Larkowich had  
9 his Massachusetts license to practice law suspended in 2005, and it has never been reinstated.  
10 Respondent Larkowich has never held a license to practice law in the state of New Hampshire.  
11 Respondent Dargon was sent a letter notifying him that Respondent Larkowich was not  
12 licensed to practice law, but nonetheless failed to correct the misleading advertisement on his  
13 website. Additionally, in correspondence with clients, Respondent Larkowich was referred to  
14 as an attorney, and “Esq.”, further misleading clients.

15           34.     In addition to performing unlicensed loan modifications, Respondent Larkowich  
16 also conducted unlicensed debt adjustment services on 24 separate occasions. RSA 399-D  
17 prohibits an unlicensed person from engaging in the business of debt adjustments in this state  
18 or with persons located in this state.

19           35.     Likewise, Patricia Ellis engaged in the business of unlicensed debt adjustment  
20 services on 5 separate occasions.

21           36.     While RSA 399-D:4, I provides for an exception to licensing if the person is an  
22 “attorney admitted to the practice of law in this state”, neither Respondent Larkowich or  
23 Respondent Ellis are licensed to practice law in the State of New Hampshire. Therefore, they  
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25 <sup>3</sup> The number of nationwide clients from whom Respondent Dargon Law received payment exceeds 600.

1 are required to have a license to perform debt adjustment services.

2 37. After the cease and desist order was issued, and relevant portions upheld by the  
3 Merrimack County Superior Court on April 26, 2010, Respondent Dargon Law and Respondent  
4 Dargon were specifically prohibited from accepting new loan modification clients whose  
5 property is located in the State of New Hampshire. Nonetheless, during the week of July 19,  
6 2010, Respondent Dargon purchased “leads” from a third party and specifically solicited *only*  
7 New Hampshire homeowners for loan modifications on their residential property.

8 38. The examination revealed a number of “welcome letters” to new clients of the  
9 Dargon Law Firm. The letters were contained in the client file, and let the client know which  
10 Dargon Law Firm attorney or paralegal had been assigned to complete their loan modification.  
11 In a number of letters, Respondent Dargon made the following representation: “Your loan  
12 modification file is now open, and has been assigned to Attorney Daniel Dargon and Mortgage  
13 Specialist (name varied). These two individuals will be handling your file personally,  
14 obtaining a copy of the lender and/or broker’s mortgage documents, completing a complete  
15 forensic audit<sup>4</sup> of your file, and negotiating the best loan modification from your lender on your  
16 behalf.” These letters were signed by Respondent Dargon.

17 39. Contrary to his representation to his clients, Respondent Dargon has stated in  
18 court pleadings that he does not represent loan modification clients. (See Dargon Law Firm  
19 PLLC, et al v. Peter C. Hildreth, Commissioner, Merrimack County Superior Court Docket No.  
20 217-2010-CV-00162; Response to Objection to Petitioner’s Motion to Dismiss Respondent’s  
21 Motion for Criminal and Civil Contempt, at paragraph 3).

22  
23  
24  
25 <sup>4</sup> It is believed that a “forensic audit” as used in the letters is an audit of all original loan documents to determine if there was fraud involved in the original issuance of the mortgage loan.

1           40.    It is unclear to the Department which statement by Respondent Dargon is  
2 truthful. Therefore, Respondent Dargon is either representing loan modification clients, or  
3 making material misrepresentations to clients.

4           41.    According to the client fee agreement for loan modifications, the up-front fee  
5 that Respondent Dargon Law collected would be “earned” as follows: One-third upon client  
6 “intake and processing”; one-third upon completion of an “audit/analysis of debt”, and one-  
7 third upon “Submission to lender of proposal.” In addition, as stated above, numerous letters to  
8 clients indicated that a “forensic audit” would be completed to assure that there was no fraud  
9 committed by the lender during the original loan application process. Department examination,  
10 including a complete review of every New Hampshire loan modification client file, revealed no  
11 evidence of a forensic audit being conducted on any file, nor any evidence of an “audit/debt  
12 analysis” having been conducted.

13           42.    Department examiners noted throughout the investigation that there were  
14 numerous, consistent violations of the Gramm-Leach-Bliley Act, which mandates “developing,  
15 implementing, and maintaining reasonable administrative, technical, and physical safeguards to  
16 protect the security, confidentiality, and integrity of customer information.” 16 C.F.R. 314.1.  
17 Specifically, client files with confidential financial information, including but not limited to tax  
18 returns, credit card statements and credit reports, were in paper files located on the floor in milk  
19 crates, on a closet floor, and on attorney, paralegal and secretaries desks. The files were not  
20 placed in locked cabinets at night. In fact, the cabinets that contained client files were never  
21 locked. On July 27 at 8:15 a.m., examiners attempted to retrieve files out of a cabinet that had  
22 previously not been locked. When they found the file cabinet was locked, employee Justin  
23 Conrad stated, “[T]hese cabinets are never locked. This must be a mistake.”

24           43.    Additionally, computers contained electronic files of confidential financial data.  
25 These files were not duplicates of the paper files. While the computers had a password

1 required to initially log on, the computers were not auto-locked, were not shut down at night,  
2 and therefore did not require the entry of a password to gain access to any of the confidential  
3 financial information. In fact, the only time examiners were required to type in a password  
4 was after the computers had shut down after a power outage.

5 44. The lack of regard for safeguarding confidential client financial data is further  
6 exacerbated by a number of factors. One concern is that the office has no reception area, no  
7 receptionist or other employee responsible for greeting members of the public, and no defined  
8 area indicating that a member of the public should not go beyond an entry area. Any client or  
9 other individual off the street could walk in to Respondent Dargon Law and enter the office  
10 space of the employees, where the computers and files were located.

11 45. There is no written safekeeping plan in place as required by the Gramm-Leach-  
12 Bliley Act and RSA 397-A:1, III.

13 46. On Monday, August 30, 2010, Respondent Dargon Law abruptly closed its  
14 doors and ceased operations. The phone numbers were all either disconnected, or went  
15 unanswered with no message machine. Clients of Respondent Dargon Law began contacting  
16 the Department and the New Hampshire Attorney General's Office to file complaints, as they  
17 had received no prior indication that the firm was going out of business. Consumers had no  
18 manner in which to obtain their client files, and no way to communicate with any Dargon  
19 employee about their loan modification.

20 47. According to the landlord of the law firm address, Respondent Dargon Law had  
21 broken its lease, and was to turn over the keys to the property. As a result of the numerous  
22 complaints, Department examiners went to the office at 101 N. State Street on September 8,  
23 2010. In the middle of the afternoon, the door was found unlocked and open, with client files  
24 containing confidential financial information located all over the floor. Nobody was present at  
25 the former firm. Ultimately, Respondent Dargon arrived at the location. He offered no

1 explanation for the failure to secure confidential information contained in the client files.

2 **ISSUES OF LAW**

3 48. The Department has jurisdiction over the licensing and regulation of persons  
4 engaged in mortgage broker and mortgage loan originator activities. RSA 397-A.

5 49. Pursuant to federal mandate<sup>5</sup>, NH RSA397-A was amended to require licensing  
6 for mortgage loan originators effective April 1, 2009. It was further amended, effective July 31,  
7 2009.

8 50. A mortgage loan originator is defined as an individual who for direct or indirect  
9 compensation or gain or in the expectation of direct or indirect compensation or gain, takes a  
10 mortgage application or offers, negotiates, solicits, arranges, or finds a mortgage loan or who  
11 assists a consumer in obtaining or applying to obtain a mortgage loan by, among other things,  
12 advising on loan terms (including rates, fees, and other costs), preparing loan packages, or  
13 collecting information on behalf of the consumer with regard to a mortgage loan or who **offers**  
14 **or negotiates terms of a residential mortgage loan.** RSA 397-A:1,XVII(a); emphasis added.  
15

16 51. A third party loan modifier who receives money from borrowers to modify  
17 residential mortgage loans secured by New Hampshire property is required to be licensed as a  
18 mortgage loan originator in the State of New Hampshire, providing they are not otherwise  
19 exempt. In this case, no exemptions apply. RSA 397-A:3, 4.

20 52. RSA 397-A:12,VII provides that every person being examined, and all of the  
21 officers, directors, employees, agents, and representatives of such person shall make freely  
22 available to the Commissioner or his or her examiners, the accounts, records, documents, files,  
23

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24 <sup>5</sup> The Secure and Fair Enforcement Mortgage Licensing Act of 2008 (SAFE Act or Act) was enacted into law on July 30, 2008,  
25 as part of the Housing and Economic Recovery Act of 2008. The law directed States to adopt licensing and registration  
requirements for loan originators that meet the minimum standards specified in the SAFE Act, in lieu of HUD establishing and  
maintaining a licensing system for loan originators.

1 information, assets, and matters in their possession or control relating to the subject of the  
2 examination and shall facilitate the examination.

3 53. Pursuant to RSA 397-A:17,II(e)(4) the Commissioner has the authority to  
4 remove or ban from office or employment, including license revocation, any person conducting  
5 business under RSA Chapter 397-A if by a preponderance of evidence the Commissioner  
6 determines that the person no longer demonstrates the financial responsibility, character, and  
7 general fitness such as to command the confidence of the community and to warrant a  
8 determination that the person subject to RSA Chapter 397-A will operate honestly, fairly, and  
9 efficiently within the purposes of RSA Chapter 397-A.

10  
11 54. RSA 397-A:21,V provides that every person who directly or indirectly controls a  
12 person liable under this section, every partner, principal executive officer or director of such  
13 person, every person occupying a similar status or performing a similar function, every employee  
14 of such person who materially aids in the act constituting the violation, and every licensee or  
15 person acting as a common law agent who materially aids in the acts constituting the violation,  
16 either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to  
17 any other penalty provided for by law, be subject to suspension, revocation, or denial of any  
18 registration or license, including the forfeiture of any application fee, or the imposition of an  
19 administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a  
20 separate violation, and such administrative action or fine may be imposed in addition to any  
21 criminal or civil penalties imposed.

22 55. In any investigation to determine whether any person has violated RSA 397-A,  
23 is about to violate RSA Chapter 397-A, the Commissioner shall be entitled to recover the cost  
24 of the investigation when findings have been made that the Respondents have committed  
25 violations, or if a default judgment has been entered. RSA 397-A:12,VI

**ALLEGED VIOLATIONS**

**1) Dargon Law Firm P.L.L.C.**

**As control person:**

- a) 108 violations of collection of advance fees for loan modifications (RSA 397-A:14, IV(m));**
- b) 108 violations of entering into “best efforts” contract (RSA 397-A:14, IV(b));**
- c) 108 violations of unlicensed loan originations (397-A:3);**
- d) 29 Violations of unlicensed debt settlement services (RSA 399-D:24, V).**

**2) Daniel Paul Dargon, Esq.**

- a) 108 violations of collection of advance fees for loan modifications (RSA 397-A:14, IV(m));**
- b) 108 violations of entering into “best efforts” contract (RSA 397-A:14, IV(b));**
- c) 108 violations of unlicensed loan originations, as principle (RSA 397-A:3; 397-A:21, V);**
- d) EITHER**
  - i) 8 violations of unlicensed loan originations (Actual work on loan modification cases), AND 1 violation of violating a rule of this state (RSA 397-A:2, III) (lack of candor to the court);**
  - OR, ALTERNATIVELY,**
  - ii) 8 violations of misleading communications (by stating he was assigned the case) (RSA 397-14, IV(n));**
- e) 1 violation of operating as an unlicensed mortgage broker (RSA 397-A:3);**
- f) 2 violations of failure to facilitate bank examination (RSA 397-A:12, VII)**
  - i) February 17, 2010**
  - ii) May 6, 2010;**



- 1       **g) 3 violations of the Graham-Leach-Bliley Act (RSA 397-A:2, III)**  
2           **i) Failure to safeguard client paper files**  
3           **ii) Failure to safeguard client computer files**  
4           **iii) Failure to safeguard partially abandoned office with client files present;**  
5       **h) 3 violations of engaging in any act, practice or course of business which would**  
6           **operate as a fraud or deceit upon any person (RSA 397-A, VI(c));**  
7       **i) Representing that a “forensic audit” of mortgage documents would be completed**  
8           **(RSA 397-14, IV(b));**  
9       **j) Representing Peter Larkowich as a licensed attorney (RSA 397-14, IV(n));**  
10       **k) Representing telemarketers as loan specialists (RSA 397-14, IV(n));**  
11       **l) 29 Violations of unlicensed debt settlement services (RSA 399-D:24, V).**

12 **3) Donald P. Lader, Jr., Esq.**

- 13       **a) 38 Violations of unlicensed loan originations (RSA 397-A:3);**  
14       **b) Unlicensed branch manager (RSA 397-A:5, III);**  
15       **c) Unlicensed mortgage broker (RSA 397-A:2);**

16 **4) Stephen R. Kasmar, Esq.**

- 17       **a) 18 Violations of unlicensed loan originations (RSA 397-A:3);**

18 **5) Joseph D. Becher, Esq.**

- 19       **a) 23 Violations of unlicensed loan originations (RSA 397-A:3);**

20 **6) Eric J. Simensen, Esq.**

- 21       **a) 11 Violations of unlicensed loan originations (RSA 397-A:3);**

22 **7) Joseph R. Russell, Esq.**

- 23       **a) 5 Violations of unlicensed loan originations (RSA 397-A:3);**

24 **8) Patricia Ellis, Esq.**

- 25       **a) 9 Violations of unlicensed loan originations (RSA 397-A:3);**



1 fairly, and efficiently within the purposes of RSA Chapter 397-A, forms the legal basis of the  
2 relief requested; and

3 4) The allegations contained in the complaint, if proved, the above named persons  
4 violated RSA Chapter 397-A or a rule or order thereunder, or if the above named person(s)  
5 charged with such violation(s) are found in default, recovery of investigation costs in addition  
6 to any other penalty would be appropriate;

7 It is hereby ORDERED, that:

8 1. Respondents shall show cause why:

9 a. administrative fines not to exceed \$2,500.00 per violation should not be  
10 imposed against them (RSA 397-A:21, 399-D) plus any additional fines and  
11 penalties not to exceed \$25,000.00 for each violation of the S.A.F.E Act  
12 pursuant to RSA 397-A:17, IX; AND

13 b. a refund to Respondent Dargon Law's residential mortgage loan  
14 modification clients of any and all fees charged and/or collected should not  
15 be given; AND

16 c. payment of the Department's cost of investigation should not be given;

17 2. Nothing in this Order to Show Cause and the Cease and Desist Order issued  
18 April 1, 2010 shall prevent the Department from taking any further  
19 administrative action under New Hampshire law;

20 3. Nothing in this Order to Show Cause shall prevent the Attorney General from  
21 bringing an action against the above named Respondents in any New Hampshire  
22 superior court, with or without prior administrative action by the Commissioner;

23 4. With the exception of Respondent Dargon Law, all other Respondents shall each  
24 show cause why, in addition to the penalties listed in Paragraphs 1 through 3  
25

1 above, he should not be removed or banned from office or employment as a  
2 New Hampshire Mortgage Loan Originator;

- 3 5. Failure of all respondents<sup>6</sup> to request a hearing within 30 days of the date of  
4 receipt or valid delivery of this Amended Order to Show Cause shall result in a  
5 default judgment being rendered and administrative penalties imposed upon the  
6 defaulting Respondent(s).

7 SIGNED,

8  
9 Dated: October 21, 2010

/s/ Robert A. Fleury  
10 PETER C. HILDRETH  
11 BANK COMMISSIONER  
12 BY ROBERT A. FLEURY  
13 DEPUTY BANK COMMISSIONER  
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25 <sup>6</sup> Respondents Dargon Law and Dargon requested a hearing upon the filing of  
the initial petition. That request remains valid, and a hearing scheduled.

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